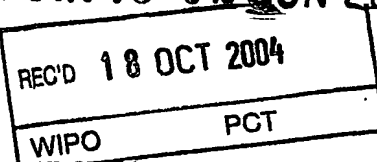


## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



|   |  |   |
|---|--|---|
| Applicant's or agent's file reference<br>36990WOP00   | <b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416). |   |
| International Application No.<br><b>PCT/AU2003/001600</b>   | International Filing Date<br>(day/month/year)<br>1 December 2003   | Priority Date (day/month/year)<br>2 December 2002 |
| International Patent Classification (IPC) or national classification and IPC<br><b>Int. Cl. <sup>7</sup> C08G 77/08</b> |  |   |
| Applicant<br><b>RPO PTY LIMITED et al</b>   |  |   |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 6 sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

|   |  |
|---|--|
| Date of submission of the demand<br>4 June 2004   | Date of completion of the report<br>8 October 2004                         |
| Name and mailing address of the IPEA/AU<br>AUSTRALIAN PATENT OFFICE<br>PO BOX 200, WODEN ACT 2606, AUSTRALIA<br>E-mail address: pct@ipaustalia.gov.au<br>Facsimile No. (02) 6285 3929 | Authorized Officer<br><br><b>N.L. KING</b><br>Telephone No. (02) 6283 2150 |

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☐ the international application as originally filed.
- ☒ the description, pages 1-21, as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☒ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages 22-27, received on 1 October 2004 with the letter of 1 October 2004
- ☒ the drawings, pages 1, as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

**4. ☐ The amendments have resulted in the cancellation of:**

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

|                               |             |     |
|-------------------------------|-------------|-----|
| Novelty (N)                   | Claims 1-55 | YES |
|                               | Claims      | NO  |
| Inventive step (IS)           | Claims 1-55 | YES |
|                               | Claims      | NO  |
| Industrial applicability (IA) | Claims 1-55 | YES |
|                               | Claims      | NO  |

**2. Citations and explanations (Rule 70.7)**

D1 JP 03197486

D2 EP 382366

D3 EP 503825

D4 US 5109093

**NOVELTY(N) Claims 1-55**

Claim 1 defines a process for the preparation of an organosilicon condensate by reacting together:-

(A) a compound with at least one silanol group, and

(B) a silicon compound with an alkoxy or alkoxyalkyl group, in the presence of

(C) a calcium or magnesium catalyst, and

(D) a protic solvent.

Claim 41 describes a similar process with a difference being that the silanol group and the alkoxy or alkoxyalkyl groups are on the same compound.

Closely-related art appears in each of the above citations.

In particular the abstract of D1 describes the production of an organosiloxane by reacting a silanol compound with an alkoxy silane in the presence of calcium hydroxide or calcium chloride as catalyst. However, the abstract makes no mention of a protic solvent.

Examples 1-5 of D4 describe similar reactions but the catalyst is barium or strontium hydroxide rather than calcium or magnesium.

Consequently, the claimed invention is novel when compared to each of the citations.

**INVENTIVE STEP(IS) Claims 1-55**

Claims 1-55 involve an inventive step because it would not be obvious to a person skilled in the art to prepare an organosilicon condensate by reacting silicon compounds with silanol and alkoxy or alkoxyalkyl groups in the presence of a calcium or magnesium catalyst and a protic solvent.